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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,246	01/14/2002	Kouichi Takamine	50023-162	9422

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McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

MAIL DATE	DELIVERY MODE
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06/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/043,246

Applicant(s)

TAKAMINE, KOUICHI

Examiner

Pierre E. Elisca

Art Unit

3621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,9,10 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,9,10 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This communication is in response to Applicant's amendment filed on 03/11/2008.
2. Claims 1, 2, 5, 9, 10, and 14-17 are currently pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 5, 9, 10, and 14-17 are rejected under 35 U.S.C. 102 (e) as being anticipated by Kambayashi et al (US PG Pub 2003/0004888 A1).

As per claims 1-, Kambayashi discloses an information recording apparatus comprising:

A time counter for measuring an accumulation time representing the time elapsed (paragraph 0500), [0693] from the start of outputting object data from the output time management apparatus, a comparator for comparing a predetermined upper limit time for which the output of said object data is permitted and said accumulation time measured by said time counter, and a controller for controlling the output of said object

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data according to a program, wherein the output time management apparatus acquires some information as an output time management program and the object data from a removable storage medium which information has been stored in, and has said controller execute the output time management program and acquired from the removable storage medium thereby control the output of said object data on the basis of the comparison results by said comparator (see., abstract, paragraph, [0251], [0252], [0260], [0261], [0272], [0276], [0277], [0321], [0441], [0479], [0564], [0569], [0578], [0645], [0696]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 5, 9, 10, and 14-17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Stefik U.S. Pat. No. 5,629980 and Nagai et al U.S. Pat. No. 6,754,442 in view of Kambayashi et al (US PG Pub 2003/0004888).

As per claims 1, 2, 5, 9, 10, and 14-17 Stefik substantially discloses in fig 15 as well as associated text, a digital rights management system wherein a user purchases the rights to render a digital work based on a predetermined amount of time. See at least items 1512-1515. Stefik also discloses adding sets of rights i.e. extending the time that a digital work may be rendered. See at least fig 15, item 1509 as well as related text.

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Stefik inherently discloses a counter that measures time elapsed, and preventing further use of a paid file when the time allotted for use runs out.

Stefik fails to explicitly disclose Applicant's newly added limitation wherein said an external medium as an output time management program. However, Nagai discloses a method/apparatus for recording/reproducing digital data. The recording medium or external factor or medium for reproducing from said disk-like recording medium during the time t_p fails to reach the capacity of the data signal and the audio signal continuously output during the time t . Therefore, the external factor of Nagai is interpreted as an external medium as an output time t_p (see., Nagai, abstract claim 7. Accordingly, it would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the rights management of Stefik by including the limitation detailed above as taught by Nagai because this would control the time duration of the medium for recording.

It is to be noted that Stefik and Nagai fail to disclose Applicant's newly added limitation wherein said removable storage medium (or memory card). Kambayashi discloses a removable storage medium or memory card (see., fig 75, paragraph [0441]). It would been obvious to a person of ordinary skill in the art the time the invention was made to modify the teachings of Stefik and Nagai by including the limitation detailed above as taught by Kambayashi because this would acquire content information as an accounting object recorded.

RESPONSE TO ARGUMENTS

7. Applicant's arguments with respect to claims 1, 2, 5, 9, 10, and 14-17 have been fully considered but they are moot in view of new ground (s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Patent hotelier.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Pierre E. Elisca/
Primary Examiner, Art Unit 3621